

CHAPTER 7. MANAGING FOR EQUALITY AND EQUITY IN EDUCATION

SUBCHAPTER 1. GENERAL PROVISIONS

6A:7-1.1 Purpose

The purpose of this chapter is to ensure that all students regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status are provided equal access to educational programs and services by district boards of education. These educational programs and services include the teaching of challenging curriculum based on the New Jersey State Core Curriculum Content Standards, differentiated instruction, formative assessments aligned to the Core Curriculum Content Standards, qualified teachers, and high teacher expectations for student learning. These rules specify standards for district boards of education in establishing policies and procedures for the provision of educational programs and services for all students, pursuant to: Article I, Paragraph 5 of the New Jersey State Constitution, the New Jersey Law Against Discrimination (N.J.S.A. 10:5-1 et seq.); N.J.S.A. 18A:35-1; 18A:36-20; 18A:38-5.1; Titles VI and VII of the Civil Rights Act of 1964 (P.L. 88-352); the Equal Employment Opportunity Act of 1972 (42 U.S.C. § 2000e); Title IX of Education Amendments of 1972 (20 U.S.C. § § 1681 et seq.); the Equal Pay Act of 1973 (P.L. 88-38); Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112); the Individuals with Disabilities Act of 1990 (P.L. 103- 336); and the Individuals with Disabilities Education Act (IDEA) of 1997 (P.L. 105-17).

6A:7-1.2 Scope

These rules specify standards that apply to district boards of education providing general education services to students in grades preschool through 12, special education services to students ages three through 21, or adult education programs, and to charter schools.

6A:7-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Achievement gap" means the difference in academic performance among student groups within a district defined at minimum by race, ethnicity, social and economic status and student status, for example, limited English proficient or students with disabilities and other significant student populations which may include gender, national origin, affectional or sexual orientation, religion and marital status.

"Affectional or sexual orientation" means male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, having a history thereof, or being perceived, presumed or identified by others as having such an orientation.

"African American history curriculum" means instructional content, materials and methods infused into the State's Core Curriculum Content Standards designed to enable students to learn

and develop an understanding of the persecution, emancipation, discrimination, achievements and contributions by people of African descent and how these experiences helped to transform America and continue to contribute toward the emergence of a global society.

"Comprehensive equity plan" means a plan designed specifically to ensure that an equal educational opportunity is available to all students through the identification and correction of discriminatory and inequitable practices prohibited by State and Federal law.

"Disability" means any physical limitation, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide dog, wheelchair, or other remedial appliance or device. "Disability" also means any mental, psychological or developmental limitation resulting from anatomical, psychological, physiological or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques.

"Discriminatory practices" means a policy, action, or failure to act that limits or denies equal access to or benefits from the educational activities or programs of a school, or that generates or permits injustice or unfair or otherwise inequitable treatment of students or staff on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status.

"Diversity" means unique differences among individuals, groups and cultures.

"Educational activities and programs" means all activities and programs conducted, sponsored or permitted by the school during the school day, after regular school hours, on weekends, or during the summer months.

"Employment and contract practices" means all policies and practices governing the recruitment, hiring, assignment, evaluation, retention and promotion of the employees of a school, the solicitation and awarding of contracts and the purchasing of materials and services.

"Equal educational opportunity" means the creation of environments that enable the provision of a thorough and efficient education as defined by the State's Core Curriculum Content Standards, differentiated instruction, formative assessments aligned to Core Curriculum Content Standards and high expectations for teaching and learning in a public school district; and when prejudice and other forms of discrimination have been eliminated in the policies, practices and curricula of the district as evidenced through the narrowing of the achievement gap; and when all students and staff enjoy equal access to all programs and benefits provided by or offered within the public schools of the district.

"Equality" means sameness, uniformity, and equivalence. Equality focuses on a student's access to educational resources.

"Educational equity" means a cohesive set of policies, programs and practices that ensure high expectations and positive achievement patterns and equal access to educational opportunity for all learners, including students and teachers.

"Equity" means when all groups of students master the goals of the curriculum to approximately the same degree. Equity focuses on students' access to knowledge.

"Formative assessments" means classroom assessments aligned to the State's Core Curriculum Content Standards administered on an ongoing basis in order to inform instruction and monitor student progress.

"Holocaust and genocide curriculum" means instructional content, materials and methods that are infused into the State's Core Curriculum Content Standards that meet the Holocaust/genocide mandate. Materials and curricula are designed to enable students to understand that genocide is a consequence of prejudice, bias, intolerance and discrimination, that issues of moral dilemma and conscience have a profound effect upon a society, and that all citizens share a responsibility to oppose prejudice and discrimination in all facets of their lives.

"Multicultural curriculum" means to incorporate throughout the curriculum the experiences, perspectives, and accomplishments of men and women of diverse racial and cultural backgrounds, ethnicities and national origin that comprise the American society, and to develop among students a respect for self and others, an appreciation of diversity, the acquisition of attitudes, skills and knowledge needed to function effectively with persons of diverse cultures.

"Multiculturalism" means the ability of an individual, group or organization to acknowledge, adapt and operate within more than one culture.

"National origin" means ethnic groups consisting of persons from countries other than the United States of America and reflects a category established by the Federal government that includes persons of the following minority groups: Alaskan Native, Asian, Haitian, Hispanic or Latino, Native American or Pacific Islander.

"Prejudice" means feelings, opinions, attitudes, or perceptions that produce disparate educational or hiring treatment of or have adverse educational or hiring impact upon any person or group of persons on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status.

"School and classroom practices" means all policies and practices governing curricular and extracurricular objectives, content, methods, materials, media, facilities and services provided by a district board of education.

"School desegregation" means the plan and process for correcting the impermissible segregation, separation or isolation of students in the schools, programs or courses of a district on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status. "School desegregation" also means the requirement to neutralize or reduce the negative effects of segregation, separation

or isolation upon students.

6A:7-1.4 Responsibilities of the district board of education

(a) Each district board of education shall adopt and implement written educational equity policies that:

1. Recognize and value the diversity of persons and groups within the society and promote the acceptance of persons of diverse backgrounds regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status; and

2. Promote equal educational opportunity and foster a learning environment that is free from all forms of prejudice, discrimination and harassment based upon race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status in the policies, programs and practices of the district board of education.

(b) The district board of education shall inform the school community it serves of these policies in a manner including, but not limited to, the district's customary methods of information dissemination.

(c) Each district board of education shall develop a comprehensive equity plan once every three years, which shall identify and correct all discriminatory and inequitable educational and hiring policies, patterns, programs and practices affecting its facilities, programs, students and staff.

1. The district board of education shall assess the district's needs for achieving equity and equality in educational programs based on an analysis of student performance data such as: National Assessment of Educational Progress and State assessment results, Pre-K-12 promotion/retention data, Pre-K-12 completion rates and re-examination and re-evaluation of classification and placement of students in special education programs if there is over representation within certain groups; staffing practices; student demographic and behavioral data; quality of program data; and stakeholder satisfaction data prior to developing the comprehensive equity plan. The purpose of the needs assessment is to identify and eliminate discriminatory practices and other barriers to achieving equity in educational programs.

2. The comprehensive equity plan shall address:

- i. Professional development pursuant to N.J.A.C. 6A:7-1.6;
- ii. Equality in school and classroom practices pursuant to N.J.A.C. 6A:7- 1.7; and
- iii. Equality in employment and contract practices pursuant to N.J.A.C. 6A:7-1.8.

3. The comprehensive equity plan shall include goals, objectives, timelines and benchmarks for measuring progress.

4. The district board of education shall submit the comprehensive equity plan to the county superintendent of schools for approval and a copy of the comprehensive equity plan to the Department.

i. If the comprehensive equity plan is not approved by the county superintendent of schools, the district board of education shall revise the plan in accordance with the instructions of the county superintendent of schools and shall submit the revised plan to the county superintendent of schools within 30 days of the notification of non-approval.

(d) Each district board of education shall, at the end of each school year, report on their annual progress in the Quality Annual Assurance Report on achieving the objectives of the comprehensive equity plan. The district Chief School Administrator shall also provide to the Department:

1. A statement of assurances and certification that:

i. The district will continue to maintain compliance with N.J.A.C. 6A:7; Titles VI and VII of the Civil Rights Act of 1964; the Guidelines for the Desegregation of Public Schools in New Jersey; and the Rehabilitation Act of 1973 (29 U.S.C. § 794);

ii. The district will perform all required activities as provided for in this chapter and report such assurances to the district's board of education annually;

iii. The district will continue the implementation of its approved comprehensive equity plan; and

iv. The district's board of education will provide a resolution approving the affirmative action officer for each school year of the three-year comprehensive plan.

6A:7-1.5 Affirmative action officer

(a) Each district board of education shall annually designate a member of its staff as the affirmative action officer and form an affirmative action team, of whom the affirmative action officer is a member, to coordinate and implement the requirements of this chapter. Each district board of education shall assure that all stakeholders know who the affirmative action officer is and how to access him or her.

1. The affirmative action officer must have a New Jersey standard certification with an administrative, instructional, or educational services endorsement, pursuant to N.J.A.C. 6:11.

2. The affirmative action officer shall:

i. Coordinate the required professional development training for certificated and non-certificated staff pursuant to N.J.A.C. 6A:7-1.6;

ii. Notify all students and employees of district grievance procedures for handling

discrimination complaints; and

iii. Ensure that the district grievance procedures, which include investigative responsibilities and reporting information, are followed.

3. The affirmative action team shall:

i. Develop the comprehensive equity plan pursuant to N.J.A.C. 6A:7- 1.4(c);

ii. Oversee the implementation of the district's comprehensive equity plan pursuant to N.J.A.C. 6A:7-1.4(c);

iii. Collaborate with the affirmative action office on coordination of the required professional development training for certificated and non-certificated staff pursuant to N.J.A.C. 6A:7-1.6;

iv. Monitor the implementation of the comprehensive equity plan; and

v. Conduct the annual district internal monitoring to ensure continuing compliance with State and Federal statutes governing educational equity, pursuant to N.J.A.C. 6A:7-1.4(d).

6A:7-1.6 Professional development

(a) Each district board of education shall provide professional development training for all school personnel on a continuing basis to identify and resolve problems associated with the student achievement gap and other inequities arising from prejudice on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status.

1. The professional development training shall be provided to all certificated and non-certificated staff.

2. The district board of education shall invite parents and other community members to participate in the professional development training.

3. The district board of education shall ensure that all new certificated and non-certificated staff are provided with professional development training on educational equity issues within the first year of employment.

(b) The Commissioner or his or her designee shall provide technical assistance to local school districts for the development of policy guidelines, procedures and in-service training for affirmative action officers so as to aid in the elimination of prejudice on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status.

6A:7-1.7 Equality in school and classroom practices

(a) Each district board of education shall provide equal and bias-free access for all students to all school facilities, courses, programs, activities and services, regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status, by:

1. Ensuring equal and barrier-free access to all school and classroom facilities;
2. Attaining minority representation within each school which approximates the district's overall minority representation. Exact apportionment is not required, however, and the ultimate goal is a reasonable plan achieving the greatest degree of racial balance which is feasible and consistent with sound educational values and procedures;
3. Utilizing a State approved English language proficiency measure on an annual basis for determining the special needs and progress in learning English of language-minority students pursuant to N.J.A.C. 6A:15-1.3(c);
4. Utilizing bias-free multiple measures for determining the special needs of students with disabilities, pursuant to N.J.A.C. 6A:14-3.4;
5. Ensuring that support services, including intervention and referral services and school health services pursuant to N.J.A.C. 6A:16, are available to all students; and
6. Ensuring that a student is not discriminated against because of a medical condition. A student shall not be excluded from any education program or activity because of a long-term medical condition unless a physician certifies that such exclusion is necessary.
 - i. If excluded, the student shall be provided with equivalent and timely instruction, that may include home instruction, without prejudice or penalty.

(b) Each district board of education shall ensure that the district's curriculum and instruction are aligned to the State's Core Curriculum Content Standards and address the elimination of discrimination by narrowing the achievement gap, by providing equity in educational programs and by providing opportunities for students to interact positively with others regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status, by:

1. Ensuring that there are no differential requirements for completion of course offerings or programs of study solely on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status;
2. Ensuring that courses shall not be offered separately on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status;
 - i. Portions of classes which deal exclusively with human sexuality may be conducted in separate developmentally appropriate sessions for male and female students, provided that the

course content for such separately conducted sessions is the same;

3. Reducing or preventing the underrepresentation of minority, female and male students in all classes and programs including gifted and talented, accelerated and advanced classes;

4. Ensuring that schools demonstrate the inclusion of a multicultural curriculum in its instructional content, materials and methods, and that students understand the basic tenet of multiculturalism;

5. Ensuring that African American history, as well as the history of other cultures, is infused into the curriculum and taught as part of the history of the United States, pursuant to N.J.S.A. 18A:35-1 and the New Jersey Core Curriculum Content Standards; and

6. Ensuring that instruction on the Holocaust and other acts of genocide is included in the curriculum of all elementary and secondary schools, as developmentally appropriate, pursuant to N.J.S.A. 18A:35-28.

(c) The district board of education shall ensure that all students have access to adequate and appropriate counseling services.

1. When informing students about possible careers, professional or vocational opportunities, the district board of education shall not restrict or limit the options presented to students on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status.

2. The district board of education shall not use tests, guidance or counseling materials which are biased or stereotyped on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status.

(d) The district board of education shall ensure that the district's physical education program and its athletic programs are equitable, co-educational and do not discriminate on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status, as follows:

1. The district board of education shall provide separate restroom, locker room and shower facilities on the basis of gender, but such facilities provided for students of each gender shall be comparable;

2. A school may choose to operate separate teams for the two sexes in one or more sports or single teams open competitively to members of both sexes, so long as the athletic program as a whole provides equal opportunities for students of both sexes to participate in sports at comparable levels of difficulty and competency; and

3. The activities comprising such athletic programs shall receive equitable treatment, including, but not limited to, staff salaries, purchase and maintenance of equipment, quality and availability of facilities, scheduling of practice and game time, length of season and all other related areas or

matters.

6A:7-1.8 Equality in employment and contract practices

(a) Each district board of education shall ensure that all persons regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status shall have equal and bias free access to all categories of employment in the public educational system of New Jersey, pursuant to N.J.A.C. 6A:7-1.1.

(b) A district board of education shall not enter into any contract with a person, agency, or organization that discriminates on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status, either in employment practices or in the provision of benefits or services to students or employees, pursuant to N.J.A.C. 6A:7-1.1.

(c) A district board of education shall not assign, transfer, promote or retain staff, or fail to assign, transfer, promote or retain staff, on the sole basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status, pursuant to N.J.A.C. 6A:7-1.1.

(d) The district board of education shall ensure equal pay for equal work among members of the district's staff, regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status, pursuant to N.J.A.C. 6A:7-1.1.

6A:7-1.9 Accountability

(a) The district board of education's obligation to be accountable for the requirements of this chapter is not precluded or alleviated by any rule or regulation of any organization, club, athletic association or other league or group.

(b) Each school district shall, by September 30, 2003, submit its comprehensive equity plan based on an assessment of the district's needs for achieving equity in educational programs that includes a cohesive set of policies, programs and practices that ensure high expectations and positive achievement patterns and equal access to education opportunity for all learners, including students and teachers.

(c) A comprehensive equity plan shall include the following:

1. A needs assessment that includes student assessment and behavioral data disaggregated by gender, race, ethnicity, Limited English Proficiency, Special Education, Migrant, date of enrollment, student suspension, expulsion, Child Study Team referrals, Pre-K-12 promotion/retention data, Pre-K-12 completion rates and re-examination and re-evaluation of classification and placement of students in special education programs if there is overrepresentation within certain group; staffing practices; quality of program data; and stakeholder satisfaction data;

2. A description of how other Federal, State and district policies, programs and practices are aligned to the comprehensive equity plan;

3. Adequate yearly progress targets for closing the achievement gap;

4. Professional development targets regarding the knowledge and skills needed to provide a thorough and efficient education as defined by Core Curriculum Content Standards, differentiated instruction, and formative assessments aligned to Core Curriculum Content Standards and high expectations for teaching and learning; and

5. Annual targets addressing district needs in equity in school and classroom practices that are aligned to professional development targets.

(d) The comprehensive equity plan shall be written every three years.

(e) The district board of education shall initiate the comprehensive equity plan within 60 days of its approval, and shall implement the plan in accordance with the timelines approved by the Department.

(f) If the district board of education does not implement the comprehensive equity plan within 180 days of the approval date of the plan, or fails to report its progress annually, sanctions deemed to be appropriate by the Commissioner of Education or his or her designee shall be imposed, and may include action to suspend, terminate or refuse to award continued Federal or State financial assistance, pursuant to N.J.S.A. 18A:55-2.

(g) Annual progress in meeting targets for all equity goals shall be included in the Quality Assurance Annual Report.

6A:7-1.10 Appeals

In accordance with N.J.S.A. 18A:6-9, any individual may petition the Commissioner of Education in writing to resolve a dispute arising under these rules pursuant to procedures set forth in N.J.A.C. 6A:3.